UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/879,575	06/12/2001	James Alexander Reeds III	1999-0275	4755

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EXAMINER
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ART UNIT	PAPER NUMBER
2134	

DATE MAILED: 09/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

	Application No.	Applicant(s)
Advisory Action *Before the Filing of an Appeal Brief*	09/879,575	REEDS ET AL.
	Examiner	**Art Unit**	
	Ellen C. Tran	2134	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 23 August 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

   a) ☒ The period for reply expires *4* months from the mailing date of the final rejection.

   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

     Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will <u>not</u> be entered because

   (a)☐ They raise new issues that would require further consideration and/or search (see NOTE below);

   (b)☐ They raise the issue of new matter (see NOTE below);

   (c)☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

   (d)☐ They present additional claims without canceling a corresponding number of finally rejected claims.

     NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

   The status of the claim(s) is (or will be) as follows:

   Claim(s) allowed: _____.

   Claim(s) objected to: _____.

   Claim(s) rejected: *1-53*.

   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will <u>not</u> be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will <u>not</u> be entered because the affidavit or other evidence failed to overcome <u>all</u> rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.

12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____

13. ☐ Other: _____.

Continuation of 11. does NOT place the application in condition for allowance because: no arguments or amendment was presented that overcome the Final Office Action rejection mailed 27 April 2006.

In response to Applicant's argument beginning on page 14, "Applicant respectfully submits that all of the independent claims fall within one of the statutory categories enumerated in 101. Independent claims 1, 14, 49, and 53 are directed to novel methods (process category). Claims 33, 44, and 48 are respectively directed to a novel receiver, transmitter, and system (machine category)" As previously stated in Final Office Action, see pages 2-4 and 7, the claims are not statutory. Selection of a fixed length segment is not tangible, no set amount is given. Furthermore the selection of the fixed length based on a received session count of a data packet is also not tangible, a session count is not constant therefore the selection does not produce a concrete, repeatable result since the session count is always changing. In addition an abstract idea that does not have a practical application is not patentable.

In response to Applicant's arguments on page 15, "Machine Category ... However, Applicant's specification specifically states at paragraph [0022] that "although in the exemplary embodiment the encryption, message digest, padding and other functions are performed using software code running on the controller 120, the various functional blocks described below may be implemented either solely in or in any combination of hardware, software, or firmware ... Furthermore, the analysis of a process category claim given by the Examiner is incorrect". The Examiner finds these claims are not tangible and concrete for the same reasons stated above. Whether the fixed length segment is in a process or a machine category does not overcome the 101 rejection. Selecting a fixed segment length based on the session count of continuous stream does not produce a tangible concrete result therefore it is not patentable. Furthermore the claims are interpreted in light of the specification but limitations from the specification are not placed into the claims.

In response to Applicant's argument on page 16, "Claims 1-53 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the Applicant regards as the invention ... The manner of selecting the fixed length segment is not necessary to recite to satisfy 112, second paragraph. The Examiner confuses breadth with indefiniteness. Requiring a particular selection technique to be recited in the claims would unnecessarily narrow the scope of the claims". The Examiner maintains the 112 rejection, selecting a fixed length segment is indefinite, the selection method, as well as the length of the segment are indefinite.

In response to Applicant's argument beginning on page 16, "The relied upon paragraph (or any other paragraphs of Medvinsky) do not disclose or suggest selecting a fixed length segment of a continuous key stream ... Medvinsky discloses using a portion of a key stream for encryption, but fails to disclose or suggest selecting a fixed-length segment of a continuous key stream". The Examiner disagrees with this argument Medvinsky shows selecting a portion of a key stream in paragraph [0033], The packet encrypter 118 employs the RTP timestamp to calculate an index into the key stream, 'to calculate' inherently is 'selecting'.

In response to Applicant's argument on page 17, "Medvinsky discloses indexing into a key stream with a received RTP timestamp and applying a portion of the key stream for decryption, but again fail to disclose or suggest selecting a fixed-length segment based on a received session count". The Examiner disagrees with argument and notes 'RTP timestamp' inherently is 'a session count'.

In response to Applicant's argument on page 17, "Regardless the validity of the Examiner's interpretation, Medvinsky does not disclose or suggest determining if a difference between timestamp or between SSRCs is less than a threshold" The Examiner disagrees with argument as indicated in paragraph [0034] of Medvinsky the steam cipher is synchronized so that the correct key stream is utilized 'synchronization' inherently is 'determining if a difference between a received session count within a received encrypted data packed and a locally generated session count is less than a threshold. In addition paragraph [0035] explains "As used herein a time stamp is any mechanism for performing synchronization for a cipher in order to attain decryption of encrypted data".

In response to Applicant's argument on page 17, "Claim 41 is rejected with reference to claim 14 ... "a session count generator configured to generate a packet number in accordance with the fixed length segment". Medvinsky discloses generating a RTP timestamp at a local MTA in accordance with a clock. Medvinsky fails to disclose or suggest generating packet number in accordance with a fixed length segment". The Examiner disagrees with argument and points to paragraph [0032] of Medvinsky that includes "the processor 124 notifies local controller 106 regarding the connection request In turn, local controller 106 signals remote gateway controller 116 through IP network 110 ... the key halves are forwarded to gateway controllers 106, 116 to form a single key". As interpreted in paragraph [0033] the RTP is used as an index to the key stream, which was generated in response to a connection request, which inherently is a session [0032].
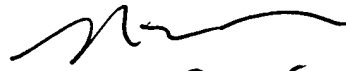
In response to Applicant's argument on page 18, "Claims 20 and 47 variously recite truncating a session count, while claims 8, 27, 38, and 51 variously recite expanding a session count. Medvinsky fails to disclose or suggest truncating or expanding a session count, a time stamp, or a session source identifier". The Examiner disagrees paragraph [0054] of Medvinsky discloses a packet size change this inherently the same as truncating or expanding.

In response to Applicant's argument on page 18, "Claims 9-13, 28-32, 40, and 52 are rejected under 103 as being unpatentable over Medvinsky in further view of Chang ... It is not clear whether pages 4 and 5 are the fourth an fifth pages ...Applicant respectfully request the Office to identify section of Chang that purportedly support the rejection by column and lines". The reference that should have been identified is Staring US Patent Publication No. 2001/0007127; the section identified is correct page 5, on paragraph 0052.

In response to Applicant's argument on page 18, "none of the art of record discloses or suggest truncating a session count or a truncator configured to or expanding a session count, a time stamp, or a ₂session source identifier". The Examiner disagrees paragraph

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[0054] of Medvinsky discloses a packet size change this inherently the same as truncating or expanding.

NASSER MOAZZAMI
PRIMARY EXAMINER

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